



Comptroller General
of the United States
Washington, D.C. 20548

145120 Lebowitz

Decision

Matter of: Vanguard Research, Inc.--Reconsideration
File: B-242633.3
Date: October 21, 1991

William M. Rosen, Esq., Dickstein, Shapiro & Morin, for the protester.
Lawrence M. Farrell, Esq., McKenna & Cuneo, for SKW Corporation, an interested party.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where protester has not shown that prior decision contains either errors of fact or law, and protester merely disagrees with our prior decision.

DECISION

Vanguard Research, Inc. requests reconsideration of our decision, Vanguard Research, Inc., B-242633; B-242633.2, May 30, 1991, 91-1 CPD ¶ 517. In that decision, we denied Vanguard's protest challenging the award of a contract to SKW Corporation under request for proposals (RFP) No. F05603-90-R-0006, issued by the Department of the Air Force for analytical support services for the United States Space Command's Center for Aerospace Analysis, Peterson Air Force Base, Colorado. We concluded that the award to SKW, the higher-technically rated, higher-cost offeror, was proper since management and technical factors were more important than cost and the Air Force reasonably determined that the technical superiority of SKW's proposal more than offset the 25 percent difference in cost between SKW's proposal and Vanguard's proposal. We also concluded that the Air Force conducted meaningful discussions with Vanguard concerning deficiencies in its technical proposal and that Vanguard was not prejudiced because of any lack of discussions concerning its costs. In this regard, the Air

Force accepted Vanguard's low proposed best and final offer (BAFO) costs at face value as accurate, but rated it high-risk for cost based on various technical deficiencies in its proposal which it discussed with Vanguard.

In its request for reconsideration, Vanguard expresses disagreement with our decision and argues that we erred in finding that the Air Force accepted its low proposed BAFO costs. Vanguard argues that the Air Force actually found its cost proposal was deficient and unrealistic. Specifically, Vanguard asserts that since the Air Force found its lack of an offsite field location overhead rate constituted a serious deficiency in its initial cost proposal, and this deficiency was not a subject of discussions, the agency did not accept its low proposed costs as realistic.

Under our Bid Protest Regulations, 4 C.F.R. § 21.12(a) (1991), to obtain reconsideration the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. The repetition of arguments made during our consideration of the original protest and mere disagreement with our decision do not meet this standard. Interior Elements, Inc.--Recon., B-238117.2, Aug. 17, 1990, 90-2 CPD ¶ 139; R.E. Sherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

As discussed in our prior decision, Vanguard had notice of the offsite field location overhead rate problem based on prior contracts, and any failure by the Air Force to formally advise Vanguard that its lack of an offsite overhead rate was unacceptable in this procurement did not prejudice Vanguard. The record showed that the Air Force accepted Vanguard's low proposed BAFO costs, which included a separate offsite field overhead rate. The record establishes that as a result of Vanguard's marginal, high-risk technical rating, the Air Force also found Vanguard's low proposed costs were high risk. Specifically, the Air Force concluded that Vanguard's proposed use of its less costly and less experienced offsite field location personnel for a substantial portion of the FFP's technical requirements would require close quality control monitoring and supervision by the government in order to ensure acceptable performance by Vanguard and to minimize cost overruns. Moreover, any subsequent decision by Vanguard to rely to a greater extent upon its more costly and more technically experienced headquarters personnel to perform required technical tasks would result in Vanguard incurring additional performance costs. Based on the record of

discussions, we found that Vanguard had been reasonably apprised of the various deficiencies involving its technical capabilities and staff qualifications which ultimately rendered Vanguard's cost proposal high risk.

Therefore, as stated in our original decision, even accepting Vanguard's low proposed BAFO costs at face value, the Air Force reasonably concluded that Vanguard's proposal was high risk in light of its concerns with various deficiencies in Vanguard's technical proposal, which the record showed were discussed with Vanguard.

While Vanguard disagrees with our decision, it has not shown that our prior decision contains either errors of fact or law. In spite of a voluminous and clear record, Vanguard continues to misunderstand and misstate the agency's concern about its use of a single overhead rate. The overhead rate dispute relates to whether a single overhead rate reasonably reflects costs of contracts largely performed at one location. This issue does not involve the risk of cost overruns on the Air Force contract--a matter that was clearly and properly a concern of the evaluators and selection authority here because of the nature of Vanguard's technical proposal. The protester's request for reconsideration is denied.


for James F. Hinchman
General Counsel